

SENATE BILL 149

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SB 4/00 - JPR

2001 Regular Session
1r0201

By: **Senators Green, Hogan, Currie, Dorman, Forehand, Hollinger, Hughes,
and Sfikas**

Introduced and read first time: January 18, 2001

Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property - Priority of Liens - Condominiums and Homeowners**
3 **Associations**

4 FOR the purpose of providing that certain lot owners within homeowners associations
5 are liable for certain fees, assessments, and charges; authorizing homeowners
6 associations to enforce the payment of certain fees, assessments, and charges by
7 imposition of a contract lien under certain circumstances; providing that a
8 certain portion of a homeowners association or condominium contract lien has
9 priority over a first mortgage or deed of trust under certain circumstances;
10 providing that certain provisions of this Act do not limit or affect certain liens,
11 mortgages, or deeds of trust; providing for the abrogation of certain provisions of
12 this Act upon the occurrence of certain contingencies; and generally relating to
13 liens on condominium units and lots within homeowners associations.

14 BY renumbering

15 Article - Real Property
16 Section 11B-114
17 to be Section 11B-115
18 Annotated Code of Maryland
19 (1996 Replacement Volume and 2000 Supplement)

20 BY repealing and reenacting, with amendments,

21 Article - Real Property
22 Section 11-110(d)
23 Annotated Code of Maryland
24 (1996 Replacement Volume and 2000 Supplement)

25 BY adding to

26 Article - Real Property
27 Section 11B-114
28 Annotated Code of Maryland
29 (1996 Replacement Volume and 2000 Supplement)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That Section(s) 11B-114 of Article - Real Property of the Annotated
3 Code of Maryland be renumbered to be Section(s) 11B-115.

4 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
5 read as follows:

6 **Article - Real Property**

7 11-110.

8 (d) (1) Payment of assessments, together with interest, late charges, if any,
9 costs of collection and reasonable attorney's fees may be enforced by the imposition of
10 a lien on a unit in accordance with the provisions of the Maryland Contract Lien Act.

11 (2) Suit for any deficiency following foreclosure may be maintained in
12 the same proceeding, and suit to recover any money judgment for unpaid assessments
13 may also be maintained in the same proceeding, without waiving the right to seek to
14 impose a lien under the Maryland Contract Lien Act.

15 (3) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, IN THE
16 CASE OF A FORECLOSURE SALE, THE PORTION OF A CONTRACT LIEN ON A UNIT
17 CONSISTING OF NOT MORE THAN 6 MONTHS OF UNPAID ASSESSMENTS SHALL HAVE
18 PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF
19 TRUST RECORDED AGAINST THE PROPERTY ON OR AFTER OCTOBER 1, 2001, IF THE
20 ASSESSMENTS INCLUDED IN THE LIEN ARE IN ACCORDANCE WITH THE ANNUAL
21 BUDGET ADOPTED BY THE COUNCIL OF UNIT OWNERS.

22 (II) 1. THE AMOUNT OF A CONTRACT LIEN ENTITLED TO
23 PRIORITY UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH MAY NOT EXCEED \$2,500.

24 2. THIS PARAGRAPH DOES NOT LIMIT OR AFFECT THE
25 PRIORITY OF A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE BENEFIT OF,
26 PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:

27 A. THE STATE;

28 B. A UNIT OF STATE GOVERNMENT; OR

29 C. AN INSTRUMENTALITY OF THE STATE.

30 11B-114.

31 (A) AS PROVIDED IN THE DECLARATION, A LOT OWNER SHALL BE LIABLE FOR
32 ALL HOMEOWNERS ASSOCIATION FEES AND ASSESSMENTS AND OTHER CHARGES
33 THAT COME DUE DURING THE TIME THAT THE LOT OWNER OWNS THE LOT.

34 (B) IN ADDITION TO ANY OTHER REMEDIES AVAILABLE AT LAW, A
35 HOMEOWNERS ASSOCIATION MAY ENFORCE THE PAYMENT OF THE FEES AND
36 ASSESSMENTS AND OTHER CHARGES PROVIDED IN THE DECLARATION BY THE

1 IMPOSITION OF A LIEN ON A LOT IN ACCORDANCE WITH THE MARYLAND CONTRACT
2 LIEN ACT.

3 (C) SUBJECT TO SUBSECTION (D) OF THIS SECTION, IN THE CASE OF A
4 FORECLOSURE SALE, THE PORTION OF A CONTRACT LIEN ON A LOT CONSISTING OF
5 NOT MORE THAN 6 MONTHS OF UNPAID FEES AND ASSESSMENTS SHALL HAVE
6 PRIORITY OVER THE CLAIM OF THE HOLDER OF A FIRST MORTGAGE OR DEED OF
7 TRUST RECORDED AGAINST THE LOT ON OR AFTER OCTOBER 1, 2001, IF THE FEES
8 AND ASSESSMENTS INCLUDED IN THE LIEN ARE IN ACCORDANCE WITH THE ANNUAL
9 BUDGET ADOPTED BY THE HOMEOWNERS ASSOCIATION.

10 (D) (1) THE AMOUNT OF A CONTRACT LIEN ENTITLED TO PRIORITY UNDER
11 SUBSECTION (C) OF THIS SECTION MAY NOT EXCEED \$2,500.

12 (2) THIS SECTION DOES NOT LIMIT OR AFFECT THE PRIORITY OF:

13 (I) A LIEN IMPOSED IN ACCORDANCE WITH A DECLARATION THAT
14 PROVIDES FOR A FIRST PRIORITY LIEN; OR

15 (II) A MORTGAGE OR DEED OF TRUST HELD BY OR FOR THE
16 BENEFIT OF, PURCHASED BY, ASSIGNED TO, OR SECURING AN INDEBTEDNESS TO:

17 1. THE STATE;

18 2. A UNIT OF STATE GOVERNMENT; OR

19 3. AN INSTRUMENTALITY OF THE STATE.

20 SECTION 3. AND BE IT FURTHER ENACTED, That the changes to §
21 11-110(d) of the Real Property Article made by this Act shall be abrogated and of no
22 force or effect if the Federal Home Loan Mortgage Corporation or the Federal
23 National Mortgage Association, by rule, regulation, or policy, ceases to purchase first
24 mortgages on condominium units in this State. The Secretary of State, within 5 days
25 after determining that the contingency provided in this section has occurred, shall
26 notify in writing the Department of Legislative Services.

27 SECTION 4. AND BE IT FURTHER ENACTED, That the addition of § 11B-114
28 to the Real Property Article by this Act shall be abrogated and of no force or effect if
29 the Federal Home Loan Mortgage Corporation or the Federal National Mortgage
30 Association, by rule, regulation, or policy, ceases to purchase first mortgages on lots
31 within developments subject to homeowners associations in this State. The Secretary
32 of State, within 5 days after determining that the contingency provided in this section
33 has been met, shall notify in writing the Department of Legislative Services.

34 SECTION 5. AND BE IT FURTHER ENACTED, That this Act shall take effect
35 October 1, 2001.